

REMARKS

A. Status of Claims

Claims 1, 3, 6, 11, 80, 84, and 89 were amended without prejudice or admission. Support for the amendments can be found, e.g., in paragraphs [0043] and [0056] of the specification.

New claims 99-108 were added. Support for claims 97-103 can be found, e.g., in paragraphs [0043] and [0056] of the specification. Support for claim 104 can be found, e.g., in paragraph [0048] of the specification. Support for claims 105-108 can be found, e.g., in paragraph [0028] of the specification.

It is respectfully submitted that claims 3, 6, 74-80, 82, 84, 86, 88, 90-95, 97-99, 99, 100, and 102-108 are encompassed by the elected invention, and that no new matter has been added by virtue of the present amendments.

B. Claim Rejections- 35 U.S.C. § 102

Claims 3, 6, 75, 78, 84, 91, 92, 94, 95, 97 and 98 were rejected under 35 U.S.C. § 102(b) allegedly as anticipated by U.S. patent No. 4,154,636 to Motoyama et al. ("the Motoyama patent").

The rejection is respectfully traversed, because the Motoyama patent does not teach "associating the scent or scent profile with the identity of the dosage form" as recited in present independent claims 3, 6 and 84.

The Motoyama patent also does not teach using the scent or scent profile imparted to the dosage form to determine what the active agent in the dosage form is. With respect on the Examiner's reliance on Example 3 of the Motoyama patent, Applicants respectfully note that the formulation of Example 3 the Motoyama patent does not include any active agents.

In an effort to advance prosecution and further differentiate from the Motoyama patent, present independent claims 3, 6 and 84 were amended without prejudice or admission to recite the step of "allowing for an authentication of the dosage form by associating the scent or scent profile with the identity of the dosage form."

The Motoyama patent clearly does not describe using a scent of a dosage form to determine the whether the dosage form is authentic or counterfeit.

With further regard to claim 6, Applicants submit that the Motoyama patent does not describe the step of "selecting a pharmaceutical dosage form ... that has been approved by a governmental agency for distribution and sale to the public" and determining identity of the dosage form as recited in claim 6. Applicants respectfully disagree with the Examiner's statement on page 2 of the Office Action that because "[t]he medicament is administered to a human for consumption and thus the active medicament must be capable of administration and sanctioned by a government agency for such administration." Applicants note that not all medicaments administered to humans are sanctioned by a government agency. For example, administration of illicit drugs is not sanctioned by a government agency (i.e., FDA).

Withdrawal of the rejection is respectfully requested.

C. Claim Rejections- 35 U.S.C. § 103

Claims 3, 6, 74-80, 82, 84, 86, 88, 90-95, 97, and 98 were rejected under 35 U.S.C. § 103(a) over the combination of the Motoyama patent and U.S. Patent No. 5,494,681 to Cuca et al. ("the Cuca patent") and U.S. Patent No. 5,409,839 to Balestrieri et al. ("the Balestrieri patent").

The rejection is respectfully traversed for the reasons given above with respect to the anticipation rejection over the Motoyama patent.

Applicants further submit that the combination of the cited references does not provide a

reason for the skilled person to combine the teaching of the Balestrieri patent with the teachings of the Motoyama patent and the Cuca patent, because the Balestrieri patent is not concerned and is not reasonably pertinent to the methods of film-coating medicines described in the Motoyama patent and tastemasked pharmaceutical materials described in the Cuca patent.

In an effort to advance prosecution and further differentiate over the cited references, independent claims 3, 6, 80, and 84 were amended without prejudice or admission to recite the step of “allowing for an authentication of the dosage form by associating the scent or scent profile with the identity of the dosage form.”

The combination of the cited references does not teach or suggest using a scent of a dosage form to determine the authenticity of the dosage form (i.e., whether the dosage form is authentic or counterfeit) as recited in claims 3, 6, 80, and 84.

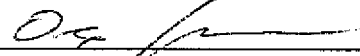
With further regard to claim 91, Applicants submit that the combination of the cited references does not teach or suggest “the scent is in a sequestered form” as recited in claim 91. In response to the Examiner’s reliance on column 5, lines 26-38, of the Balestrieri patent, Applicants respectfully note that the vapor taggants described in this passage “permeate the microcapsule membrane” and therefore are not sequestered as recited in claim 91.

Withdrawal of the rejection is respectfully requested.

CONCLUSION

An allowance of the present application is earnestly solicited. According to currently recommended Patent Office policy, the Examiner is specifically authorized to contact the undersigned by telephone in the event that a telephonic interview will advance the prosecution of this application.

Respectfully submitted,
DAVIDSON, DAVIDSON & KAPPEL, LLC

By: 
Oleg Ioselevich
Reg. No. 56,963

DAVIDSON, DAVIDSON & KAPPEL, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018
(212) 736-1940